

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DANIEL TERRELL MAGEE

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:11-cv-371-HSO-RHW

MIKE ODOM, *et al.*

DEFENDANTS

**ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS OF
FACT AND RECOMMENDATION, AND DISMISSING PLAINTIFF'S
COMPLAINT WITHOUT PREJUDICE**

This cause comes before the Court on the Proposed Findings of Fact and Recommendation [28] of United States Magistrate Judge Robert H. Walker, entered in this cause on July 11, 2012. Magistrate Judge Walker recommended that this case be dismissed without prejudice for Plaintiff's failure to maintain a current address and failure to prosecute. Proposed Findings of Fact and Recommendation [28], at p. 2. The envelope [29] containing the Proposed Findings of Fact and Recommendation was returned as undeliverable. The words "RTS" and "not here" were written near Plaintiff's name. *Id.* To date, Plaintiff has not filed any objection to the Proposed Findings of Fact and Recommendation.

Where no party has objected to a magistrate judge's report and recommendation, the Court need not conduct a *de novo* review of it. 28 U.S.C. § 636(b)(1) ("a judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Plaintiff has been warned that his failure to advise the Court of a change of address would be deemed a purposeful delay and contumacious act, and may result in his case being dismissed. *See, e.g.*, Order [3], at p. 2; Order [7], at p. 2; Order [13], at p. 2. Plaintiff submitted a letter [22] to the Court, which was filed into the record on May 31, 2012, and which informed the Court that he had been transferred to St. Tammany Parish in Covington, Louisiana; however, he provided no new address. The return address on the envelope was for the Pearl River County Jail, where he had been previously confined. Since that time, documents mailed to Plaintiff have been returned as undeliverable [24], [25], [27], [29]. Plaintiff has not filed any documents in this case since his letter was docketed on May 31, 2012.

After review of the record, the Court, being fully advised in the premises, finds that the Proposed Findings of Fact and Recommendation [28] are neither clearly erroneous nor contrary to law, and should be adopted as the opinion of this Court. Accordingly,

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Proposed Findings of Fact and Recommendation [28] of United States Magistrate Judge Robert H. Walker, entered in this cause on July 11, 2012, should be, and the same hereby are, adopted as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, this case is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute.

SO ORDERED AND ADJUDGED, this the 20th day of September, 2012.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE